

## TOP 10 THINGS CONTRACTORS SHOULD KNOW ABOUT CLIMATE CHANGE

The U.S. Congress is considering whether to enact “cap and trade” program that would enable the federal government to regulate greenhouse gas emissions (GHG). Policymakers there are seeking to enact a comprehensive energy and climate change bill that aims to increase energy efficiency, address the risk of global warming, and transition the economy to the carbon-constrained future that many have come to expect. On June 26, 2009, the U.S. House of Representatives passed the American Clean Energy and Security Act of 2009 (H.R. 2454). On September 30, 2009, the Clean Energy Jobs and American Power Act (S. 1733) was introduced in the U.S. Senate. At the same time, the U.S. Environmental Protection Agency (EPA) is considering its options for regulating GHGs under the federal Clean Air Act.

AGC is concerned that new federal legislation and/or regulations intended to control GHG emissions could deter new construction and directly affect contractors’ day-to-day operations.

### OBSTACLES TO CONSTRUCTION

1. **Using the Clean Air Act (CAA) to regulate GHGs could halt building construction and renovation and jeopardize funding for highway projects.** Once EPA controls a GHG under almost any section of the Act, most buildings that emit that “pollutant” would become subject to costly permitting and construction requirements. The NAAQS program also would be triggered under the CAA, which could deter new building construction as well as threaten federal funding for highway projects.
2. **The threshold for the monitoring, measurement, and reporting requirements under EPA’s reporting rule is set too low and will have thousands of facilities scrambling to comply within a short time frame.** The new EPA reporting rule would affect facilities emitting 25,000 tons/year CO<sub>2</sub>e (carbon dioxide equivalent) or more. During the rule drafting process, EPA’s analysis of the reporting requirements reveals that the costs and burdens of federal regulation increase dramatically as the threshold drops. EPA rejected the option to set a 100,000 ton threshold, which would capture 52.4 percent of all GHG emissions but cover only 6,598 facilities. The 25,000 ton increases the percentage of captured emissions to 54.9 percent but dramatically increases the number of covered facilities to 13,205. AGC members own and/or operate facilities that could exceed the reporting thresholds (e.g., large stationary equipment and materials processing plants) and are dependent on other potentially regulated facility owners for new work and for materials. As such, the reporting rule, and any future control requirements, could directly affect AGC members’ daily operations, their ability to secure future construction work, and the costs of materials, equipment, and fuel used in their construction projects. In addition, EPA’s timeline for reporting is too quick – with monitoring to begin in January 2010. Many small businesses will not know whether their emissions fall within the threshold and thousands of firms— EPA estimates as many as 30,000—will have only months to determine their applicability in the program.
3. **“Cap and trade” to regulate GHG emissions could increase the cost of construction and make U.S. investments in commercial, manufacturing, and industrial facilities less economically attractive.** Potential increases in the cost of electricity and fuel used in the commercial sector would affect the cost of materials (e.g., cement, steel) and products (e.g., HVAC, plumbing supplies) used in construction, thereby reducing the demand for new construction and major upgrades and/or renovations. This effect would be seen particularly strong in geographic areas heavily reliant on coal and where renewable energy targets may not be met easily. The increases in cost also could force manufacturing and industrial facilities to relocate overseas or cease operations altogether, rather than make the investments needed to upgrade or expand their facilities.
4. **Authority to EPA to regulate small emitters puts burden on the business community too small to participate in the cap-and-trade scheme.** The House-passed bill gives free rein to EPA to regulate emissions from small emitters, i.e., 10,000 tons/year CO<sub>2</sub>e. Thousands of facilities would be impacted by new requirements with an unknown affect on the future availability and cost of the materials, products, and services they produce.

5. **New transportation planning requirements would lead to more federal decision-making authority over local land use planning.** Both bills add substantive changes to the state and metropolitan transportation planning process by requiring states and municipalities to submit plans that meet goals for GHG reductions from the transportation sector based on federal regulations, models, and methodologies developed by EPA. This could lead to restrictions on personal and freight mobility, create new substantive and procedural planning hurdles for highway capacity projects, and increase the pain of congestion as a way to change behavior. Limiting transportation choices jeopardizes the ability of communities to attract and retain business or to provide the necessary infrastructure to connect people to their homes, jobs, and interests. The construction of buildings and facilities along these networks would suffer.
6. **The price of fuel would increase, which would deter efforts to raise the gas tax to fund highway and transit infrastructure.** According to the petroleum industry, the House-passed bill would increase the cost of a gallon of gasoline by an estimated 77 cents over the next 10 years through additional refinery costs imposed by the legislation. The increased cost of fuel would likely crowd out efforts to raise the motor fuels tax to fund surface transportation improvements that would actually reduce congestion and save fuel. The buying power of the federal motor fuels tax has been reduced by nearly 85 percent since the user fee was last increased in 1993. A study of the nation's worst traffic bottlenecks concluded that modest improvements to traffic flow at 233 bottlenecks would reduce CO2 emissions by as much as 77 percent and conserve more than 40 billion gallons of fuel over a 20-year period.
7. **Setting arbitrary energy efficiency targets through a government run process rather than relying on the existing consensus process to develop building energy codes would result in greater uncertainty for the building industry and likely result in unnecessary delays in the development of such codes.** The existing processes for the development of building energy codes requires the participation of multiple stakeholders in an open, consensus based process including government, advocacy groups, and industry representatives. This process results in the development of codes that achieve the highest levels of efficiency possible that are cost effective and utilize proven technologies. Furthermore, significant gains in reducing energy use and related GHG emissions can be achieved through enforcement and adoption of existing building energy codes, which can be assisted through grants, training programs, and technical resources.

#### THREATS TO EQUIPMENT OPERATION

8. **New standards for construction equipment would increase costs, uncertainty.** Both bills direct EPA to set new GHG emission standards for sources not controlled by the allowance system, pointing to a variety of mobile sources used in construction—including new heavy duty trucks and off-road equipment.
9. **New emissions reduction standards for black carbon would impact equipment currently in use.** Both bills create special programs to aggressively reduce emissions of black carbon—which is emitted by construction equipment—specifically directing EPA to make an inventory of sources, to outline strategies to “retrofit” on-road and off-road sources that are currently in use, and to use its existing authority under the CAA to promulgate final regulations on black carbon within two years.

#### OPPORTUNITIES FOR CONTRACTORS

10. **Transitioning to a carbon-constrained economy may present new opportunities for building design and construction to meet growing needs for energy efficient infrastructure.** Tax or other incentives in any GHG legislation to reduce energy consumption in the U.S. could provide opportunities for the real estate, design and construction industries to provide new and/or upgrade existing infrastructure to meet the needs of a carbon-constrained economy, including renewable energy generating facilities (e.g., wind, solar, biomass), energy-efficient buildings; efficient electrical transmission and distribution networks (i.e., Smart Grid), and other facilities required to support this transition.